M E M O R A N D U M

TO: Governing Board Members

FROM: Deena Reppen, Deputy Executive Director, Regulation and Public Affairs

DATE: February 2, 2011

SUBJECT: A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 10 year lease/project agreement with Lykes Bros, Inc. and authorize a Sole Source as an exception to the general standards of competition, for the strategically located Nicodemus Slough Water Management Project designed to provide significant regional water storage and treatment on approximately 16, 000 acres of which 14,000 acres will be leased in the Northern Everglades and Estuaries Protection Area and add authorize funding to be disbursed in increments following design, permitting, and construction in an amount not-to-exceed $4,900,000 with partial lease payments commencing during construction in multiple increments based on the percentage of land that cannot be used for cattle production and annual payments thereafter not-to-exceed $2,500,000 following completion of construction to cover lease, operation and maintenance costs over the remaining term of the 10 year lease, subject to annual adjustments of 3% or the CPI, whichever is greater; of which $350,000 is budgeted for FY11 from dedicated funds – Save Our Everglades Trust Fund (SOETF) – with the remainder subject to future budget approvals for fiscal years 2012 through 2021; providing an effective date (Contract No. 4600002358)

Background

The proposed Nicodemus Slough Water Management project consists of 15,935 acres of agricultural lands directly to the west of Lake Okeechobee and includes a 2,016 acre District perpetual flowage easement on the eastern edge (see Attachment 1 Location Map).

Lake Okeechobee is listed under section 303(d) of the Clean Water Act (40 CFR, Part 130) as a Florida impaired water body. In 2000, the Florida Legislature enacted the Lake Okeechobee Protection Act. Subsequently, in October 2005, then Governor Jeb Bush announced the Lake Okeechobee and Estuary Recovery Plan from which the District initiated a search (reference Attachment 2 Postcard) for interested private partners to store water on their lands. Lykes Bros. Inc. responded in 2006 with a preliminary expression of interest for its Nicodemus Slough Water Management Project to be considered by the District as a water management facility. As part of the Northern Everglades Protection program, “The Lake Okeechobee Watershed Construction Project Phase II Technical Plan” (P2TP) was submitted to the Florida legislature in February 2008 whereas River Watershed Protection Plans for the St. Lucie and Caloosahatchee River Watersheds were submitted to the Florida Legislature on January 1, 2009. All three Plans include efforts which have the goal of reducing the volume of excess water and amount of nutrients to Lake Okeechobee and the Estuaries. The P2TP recommended that feasibility studies be conducted for the Northern Everglades sub-watersheds to quantify restoration goals and identify projects to meet those goals.

The Nicodemus Slough proposed project is located within the 1st Northern Everglades Sub-Watershed (Fisheating Creek) in Glades County (reference Attachment 3). The project concept is for the District, as a lessee, in partner with the private landowner to construct facilities and implement an operational plan to utilize the property as a regional water management facility to the benefit of the public and the environment. Water resource benefits from the project include: reducing high stages in Lake Okeechobee and Fisheating Creek; reducing excessive freshwater discharges to the Caloosahatchee River Estuary; restoring hydrology to the site in a manner that is beneficial to existing drained wetlands and former creek floodplain habitat; improving the quality of water delivered to the Caloosahatchee River Estuary and Lake Okeechobee; and, conserving water for beneficial uses that would have otherwise been lost to tide.

How this helps meet the District's 10-year Strategic Plan:
Lake Okeechobee restoration planning efforts (initiated over 10 years ago) have included searching for potential private partners to implement cost-effective water resource projects to meet program restoration goals. All of those efforts have not resulted in the identification of an equivalent water management project. The project will support the Dispersed Water Management program listed in the District's Annual Work Plan which is linked to the 10-Year Strategic Plan and is the most efficient utilization of resources to achieve program goals.

Funding Source: Save Our Everglades Trust Fund

This Board item impacts what areas of the District, both resource areas and geography:
The Resource Areas impacted by the referenced amendment are Everglades Restoration, Operations and Maintenance, and Regulation and Public Affairs.

What concerns could this Board item raise?
District staff has compared the Nicodemus Slough Water Management Project's costs and benefits to other projects that are most similar in providing water storage or nutrient retention and have concluded that the projected project costs are comparable for storage or nutrient retention. This Project's unique opportunity to provide both retention and water quality improvement under different hydrologic conditions in a given year makes it even more cost-effective. Other benefits include a substantial amount of existing infrastructure enabling early implementation and corresponding improvements, increased operational flexibility, natural system improvements and water conservation. Further opportunities for making this project even more cost effective will be pursued during the negotiation process. The lease/project agreement first year funding is budgeted in FY11, future year funding is subject to Governing Board approval. Should it not be approved, the ability to achieve Dispersed Water Management and Northern Everglades Program goals will be negatively impacted.

Why should the Governing Board approve this item?
The Nicodemus Slough Water Management Project is the only project that can provide multiple-source, large-scale water resources benefits, including reducing high stages in Lake Okeechobee and Fisheating Creek and excessive freshwater discharges to the Caloosahatchee River Estuary, restoring hydrology to the site in a manner that is beneficial to existing drained wetlands and former Creek floodplain habitat, improving the quality of water delivered to the Caloosahatchee Estuary and to Lake Okeechobee, and conserving water for beneficial uses that would have otherwise been lost to tide. The project has been proposed since 2006 which

was the beginning of the alternative water storage efforts search to work with willing private landowners on retaining water. The project's completed conceptual design and substantial amount of existing facilities offer a unique opportunity to implement a large scale regional private project in a relatively short period of time (final design and permitting could be completed in less than a year). The project is strategically located within the 1st Northern Everglades Sub-watershed (Fisheating Creek Basin) being planned for project implementation. Implementation of the USDA Natural Resources Conservation Service Fisheating Creek Special Wetland Reserve Project in conjunction with this Nicodemus Slough Project would make significant progress in achieving the sub-watershed water storage and nutrient reduction goals. Significant excess water storage (33,860 ac-ft) has been estimated while at the same time reducing nutrient loading to the Lake and Estuary. The existing mixed system of drained wetlands and pasture lands on the site offer the opportunity to restore hydrology to the wetlands and their floodplain while reducing nutrient loading. The existing connections to the Lake, Caloosahatchee, and access to Fisheating Creek discharges affords distinctive multi-operational scenarios (e.g. storing or treating Fisheating Creek excess water; storing and treating Lake Okeechobee excess water; treating water before reaching the Caloosahatchee River). The existing 2,016 acre flowage easement area rarely achieves its established regulatory schedule stages. Implementation of the project will provide a water regime for the easement area to maintain its optimal schedule. In closing, the Nicodemus Slough Water Management Project has unique technical attributes not available from any another source and working with private landowners as partners results in cost savings to the public. The approval of the agreement is the most efficient manner to achieve the Northern Everglades water quality improvement and water storage/retention goals, which is critical to the health of the watersheds.

If you have any questions, please do not hesitate to call me at ext. 6232.

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